

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

MICHAEL A. WILMINGTON,)
)
Plaintiff,)
)
vs.) Case No. 4:14 CV 1801 CDP
)
J.E. PHILLIPS & SONS, INC., et al.)
)
Defendants.)

MEMORANDUM AND ORDER

This matter is before the Court on review of the file. The Eighth Circuit has admonished district courts to “be attentive to a satisfaction of jurisdictional requirements in all cases.” *Sanders v. Clemco Indus.*, 823 F.2d 214, 216 (8th Cir. 1987). “In every federal case the court must be satisfied that it has jurisdiction before it turns to the merits of other legal arguments.” *Carlson v. Arrowhead Concrete Works, Inc.*, 445 F.3d 1046, 1050 (8th Cir. 2006). “A plaintiff who seeks to invoke diversity jurisdiction of the federal courts must plead citizenship distinctly and affirmatively.” 15 James Wm. Moore, et al., *Moore’s Federal Practice* § 102.31 (3d ed. 2013).

The Complaint in this case asserts that the Court has jurisdiction over the action pursuant to 28 U.S.C. § 1332 because the lawsuit is between citizens of different States and the matter in controversy exceeds the sum of \$75,000. The

Complaint alleges that plaintiff Michael Wilmington is a “resident of St. Claire County, State of Illinois.” It also alleges that defendant Robert Howell is a resident of Missouri and that defendant Undray Kilpatrick is a resident of Illinois. Finally, the Complaint alleges that J.E. Phillips and Sons, Inc. is a “corporation currently in good standing with the Secretary of State, State of Tennessee and is an interstate commercial trucking company which travels through the state of Missouri.” These allegations are insufficient for the Court to determine whether it has diversity jurisdiction over this matter.

“A complaint that alleges merely residency, rather than citizenship, is insufficient to plead diverse citizenship.” 15 *Moore’s Federal Practice* § 102.31; see *Sanders*, 823 F.2d at 215 & n.1. Because plaintiff only alleges his own residency and the residencies of the defendants Kilpatrick and Howell, he does not allege their citizenship.

Similar deficiencies appear with regard to J.E. Phillips and Sons. That entity is a corporation, and thus it is a citizen of both its state of organization and its principal place of business. See 28 U.S.C. §§ 1332(a), (c)(1); *Sanders*, 823 F.2d at 215 n.1. Thus, for defendant J.E. Phillips and Sons, plaintiff must establish its state of incorporation and principal place of business. Neither appears in the Complaint.

The Court will grant plaintiff ten (10) days to file an amended complaint that alleges facts showing the existence of the requisite diversity of citizenship of the parties. If plaintiff fails to timely and fully comply with this Order, the Court will dismiss this matter without prejudice for lack of subject-matter jurisdiction.

Accordingly,

IT IS HEREBY ORDERED that by November 17, 2014, plaintiff shall file an amended complaint that alleges facts establishing his own citizenship and the citizenship of each defendant.

IT IS FURTHER ORDERED that if plaintiff does not timely and fully comply with this order, this matter will be dismissed without prejudice for lack of subject-matter jurisdiction.

IT IS FURTHER ORDERED that all other proceedings in this case are **STAYED** pending further order of this Court.



CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

Dated this 6th day of November, 2014.